

REMARKS

On pages 2 and 3 of the Office Action dated November 1, 2007 the Examiner has rejected claims 1, 4, 6 – 9, 11 – 17, 21 and 23 as being anticipated by Jay US Patent No. 5,018,790. On page 4 of the Office Action, the Examiner has rejected claims 10 and 20 as unpatentable over the Jay US Patent No. 5,018,790 in view of Ito US Patent No. 4,865,379 and Aoki et al US Patent No. 4,813,738. The Examiner has kindly indicated that claim 18 would be allowable if rewritten to overcome the stated objections and to include all of the limitations of the base claim and any intervening claims. The Examiner has previously indicated that claim 18 would be allowable. As stated in the Response to the first Office Action, the Applicant is much obliged to the Examiner for indicating that claim 18 would be allowable. However, in reviewing Jay and with the greatest respect, the Applicant still believes that he is entitled to a little broader protection than would be afforded by claim 18.

The Examiner's reasons for rejecting claims 1, 4, 6 – 9, 11 – 17, 21 and 23 over Jay are set out on page 5 of the Office Action. The Applicant agrees entirely with the Examiner's statement that the Applicant's believe that the seat portion of Jay must always have what might be regarded as first and second parts as shown in Figure 1 plus the fluid filled pad 42 shown in Figure 3 and forming an essential part of all of the Jay claims. We note from the Interview Summary kindly sent by the Examiner that the Examiner believes that the Jay

disclosure includes the Jay fluid filled bag 42 not being present. The Applicant respectfully disagrees with this.

In support of the fluid filled pad 42 being essential, we note the Jay Summary of the Invention at column 2 line 15 and the reference to "covered with a pressure relieving pad containing a fluid filling material". We also note the description of "The Pad" at column 5 line 40 – column 6 line 7. Although column 5 line 42 refers to "the preferred embodiment" it is absolutely clear from reading the description of the drawings that the pad 42 is essential. We further note that the Jay patent has independent claims 1, 5, 9, 13, 17, 21 and 25. All of these claims have the fluid filled pad as an essential feature. We note that the Jay Figure 3 is an exploded view to aid an understanding of the Jay invention. Figure 3 is not an illustration showing that the fluid filled pad 42 need not be present at all. A reader of the Jay patent can come to no other conclusion than the fact that the fluid filled pad 42 is essential.

In the Office Action dated November 1, 2007 the Examiner states as follows:

However, "fluid filled pad" in the Jay patent is not "in the seat portion" as newly amended claim 1 recites.

Furthermore, Jay discloses that "the pad 42 need not be attached to the tray" (see column 5, lines 55 – 57). With that statement and teaching, Jay also teaches that the first and second parts can be the only parts in the seat portion which provide a posterior-

supporting function as defined, since the "fluid filled pad" can or cannot be present.....

The Applicant was much obliged for the above explanation of the Examiner's understanding of what Jay teaches. We understand the Examiner's position to be that Jay teaches that the first and second parts of the seat portion can be the only parts in the seat portion which provide a posterior-supporting function. In view of this, claim 1 and the statement of invention in the Response filed on 14 May 2007 were amended in the Response last filed to specify that it is the Applicant's seat and not just the seat portion in which the first and second parts are the only parts which provide the posterior-supporting function. Thus the Applicant's amended claim 1 was believed to clearly distinguish over the Jay specification because the Jay entire seat is such that the fluid filled pad 42 is always present and it certainly provides a posterior-supporting function, see for example Jay at column 2 lines 18 – 20 "a pressure relieving pad containing a fluid filling material to present a customised, comfortable posture-correcting pressure relieving seat cushion".

In the Office Action dated 28 January 2008, the Examiner refused to enter the above discussed amendment in the Response as last filed. A request for continued examination has accordingly been made and claim 1 has been further amended by the present Preliminary Amendment. In the present Preliminary Amendment, claim 1 has been amended to remove the wording not approved by the Examiner, namely that the first and the second parts are the only parts in the

seat which provide the posterior supporting function. Instead, claim 1 has been limited firstly to specify that the insert is a one piece insert, secondly to specify that the recess extends into the first part from an upper part of the first part, and thirdly to specify that the insert has an upper surface which is flush with the upper surface of the first part. In the Jay specification, none of these three features are shown. More specifically, as is clearly shown in Figure 1 of Jay, the two Jay supports 23 and the two Jay elements 33, 35 are not the Applicant's insert which is stated in claim 1 to comprise the pair of pads for going underneath the cheeks of the posterior of the person, and the pair of legs for going underneath the thighs of the person. These four Jay parts are clearly not a one piece insert. As is clear from Jay Figure 2, Jay does not have a recess which extends into the first part from an upper surface of the first part. As is also clear from the Jay Figure 2, the Jay elements do not have an upper surface which is flush with the upper surface of the first part. The basic difference is that the Jay elements stick on top of the first part 11 using the Velcro strips 41 shown in Figure 2, while the Applicant's insert goes into a formed recess which extends into the Applicant's first part from an upper surface of the first part. The Applicant's claim 1 is now specific to something which is absolutely nothing like the Jay disclosure, and which does not rely on arguments relating to the presence or absence of the Jay fluid filled pad 42.

The Applicant relied for the patentability of the sub-claims 4, 6 – 9, 11 – 17, 21 and 23 which have been rejected as anticipated by Jay, and for the

patentability of claims 10 and 20 which have been rejected as being unpatentable over Jay in view of Ito and Aoki et al, on the fact that all of these claims include the features of amended claim 1, and amended claim 1 is believed to be allowable for the reasons stated above. Insofar as Section 6 of the Office Action Summary dated November 1, 2007 refers to claim 19, it is noted that claim 19 has been deleted.

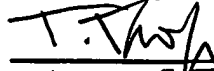
Claim 25 is a new claim which is like the above currently amended claim 1. Claim 25 contains the claim 1 feature of the recess extending into the first part from an upper surface of the first part, and also the claim 1 feature of the insert having an upper surface which is flush with the upper surface of the first part. In claim 25, as an alternative to specifying that the insert is a one piece insert, claim 25 specifies that the insert is of a continuous shape. This is because Figures 11 and 13 show the insert being of a continuous shape but actually formed from separate parts. The description has been amended at page 6 line 8 to make it clear that Figure 14 is no longer within the scope of the claims as presented in this Preliminary Amendment.

Accordingly, it is respectfully submitted that this application is in condition for allowance. Early and favorable action is respectfully requested.

If for any reason this **RESPONSE** is found to be **INCOMPLETE**, or if at any time it appears that a **TELEPHONE CONFERENCE** with Counsel would help

advance prosecution, please telephone the undersigned or one of his associates,
collect in Waltham, Massachusetts, at (781) 890-5678.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'T. Thompson, Jr.', written over a horizontal line.

Thomas E. Thompson, Jr.

Reg. No. 47,136